

STATE OF IOWA
DEPARTMENT OF COMMERCE
UTILITIES BOARD

IN RE: REVIEW OF EMISSIONS PLAN AND BUDGET REQUIREMENT	DOCKET NO. NOI-03-4
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ORDER APPROVING REPORT AND CLOSING DOCKET

(Issued December 1, 2003)

On August 14, 2003, the Utilities Board (Board) issued an order initiating this inquiry to review the emissions plan and budget requirement in Iowa Code § 476.6(25) (2003). Iowa Code § 476.6(25)"g" requires the Board to report to the General Assembly on the appropriateness and desirability of requiring municipal utilities and rural electric cooperatives to file emissions plans and budgets similar to those required for rate-regulated utilities. This inquiry was initiated to seek public input on this issue and on whether the Board should recommend other statutory changes to the section. Written and oral public comments were received.

After considering the written and oral comments, the Board finds that the attached report should be submitted to the General Assembly.

IT IS THEREFORE ORDERED:

1. The attached report will be submitted to the General Assembly.
2. Docket No. NOI-03-4 is closed.

UTILITIES BOARD

/s/ Diane Munns

/s/ Mark O. Lambert

ATTEST:

/s/ Judi K. Cooper
Executive Secretary

/s/ Elliott Smith

Dated at Des Moines, Iowa, this 1st day of December, 2003.



STATE OF IOWA

THOMAS J. VILSACK
GOVERNOR
SALLY J. PEDERSON
LT. GOVERNOR

IOWA UTILITIES BOARD
IOWA DEPARTMENT OF COMMERCE

December 1, 2003

The Honorable Margaret Thomson
Chief Clerk of the House
Statehouse
LOCAL

Dear Ms. Thomson:

House File 577 was enacted in a special session in June 2001. While this legislation was noted for its efforts to encourage power plant construction, the bill also included a provision requiring the two rate-regulated electric utilities to develop a multiyear plan and budget for managing regulated emissions from their Iowa coal-fired electric generating facilities in a cost-effective manner. The two affected rate-regulated utilities, Interstate Power and Light Company and MidAmerican Energy Company, each filed their first emissions plan and budget with the Board in the spring of 2002. Both emissions plans and budgets covered the period April 1, 2002, through March 31, 2004. Both were approved by the Board in contested cases conducted as set forth in the statute. Also as required by the statute, the Consumer Advocate Division of the Department of Justice and the Iowa Department of Natural Resources (IDNR) participated as parties to the contested cases.

In addition to the required filings by the two rate-regulated utilities, HF 577 also required the Board to provide a report to the General Assembly on the question of whether to recommend filing of emissions plans and budgets by municipal utilities and rural electric cooperatives. Iowa Code §476.6(25)"g" states: "The board shall report to the general assembly by January 21, 2003, on the appropriateness and desirability of requiring the municipal utilities and the rural electric cooperatives to file multiyear plans and budgets for managing regulated emissions from their electric power generating facilities fueled by coal and located in this state, similar to the process required for rate-regulated public utilities under this subsection." As shown on the attached list of Iowa coal-fired power plants, seven of them are owned and operated by municipal utilities and rural electric cooperatives.

On January 14, 2003, the Board sent a report to the General Assembly stating that because the contested cases regarding the two emissions plans and budgets filed by

the rate-regulated utilities were ongoing, it recommended that the General Assembly take no action at the time. The Board committed to opening an inquiry once the contested cases were over to receive input from all parties on the appropriateness and desirability of requiring similar plans from the consumer-owned utilities and to filing a final report with the General Assembly in January 2004.

Once the contested cases were completed, the Board held an inquiry proceeding on whether consumer-owned utilities should be required to file emissions plans and budgets. Written and oral comments were received from Interstate Power and Light Company, MidAmerican Energy Company, the Iowa Association of Municipal Utilities, the Iowa Association of Electric Cooperatives, the Consumer Advocate Division of the Department of Justice, and the Iowa Department of Natural Resources (IDNR). There was no consensus as to whether the municipal utilities and rural electric cooperatives who own the seven coal-fired plants should be required to file emissions plans and budgets.

Analysis

Although the Board believes that in some situations, municipal utilities and rural electric cooperatives should be required to comply with the same requirements as the rate-regulated utilities, this is not one of those situations.

As it currently exists, the sole purpose of the statute and the contested case proceeding set forth in it is to allow the rate-regulated utilities to receive advance assurance that they may recover approved reasonable emissions plan and budget expenses in regulated rates. The Board has no rate-regulation authority over municipal utilities and rural electric cooperatives. Therefore, no purpose would be served by requiring municipal utilities and rural electric cooperatives to file emissions plans and budgets pursuant to this statute.

The statute is not an environmental statute and imposes no additional environmental requirements. Regardless of this statute, the municipal utilities and rural electric cooperatives that own the seven coal-fired power plants must comply with all environmental requirements administered by the federal government and IDNR. It does not matter whether the owner or operator is rate-regulated or not. Rate regulation is only important to the utility body of law. It is not relevant to whether environmental laws apply. All Iowa coal-fired generating plants, including those owned by municipal utilities and rural electric cooperatives, are subject to detailed and pervasive environmental requirements that govern and restrict their emissions. These requirements must be complied with regardless of whether their owners must file emissions plans and budgets.

The Honorable Margaret Thomson
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The IDNR is the agency of government with the duty and the expertise to regulate air emissions from Iowa's coal-fired power plants and to develop comprehensive plans and programs for the abatement, control, and prevention of air pollution. If the General Assembly determines that additional environmental regulation of the seven coal-fired plants owned by the municipal utilities and rural electric cooperatives is necessary or that all utilities should participate in coordinated planning with respect to their regulated air emissions from coal-fired power plants, the IDNR is the agency with the expertise and experience to perform these functions. To require the Board to perform environmental regulation or oversee coordinated planning by utilities with respect to their regulated air emissions would require the Board to hire additional staff with expertise already possessed by IDNR staff, to perform functions already performed by IDNR, and would be duplicative, wasteful, and expensive.

Recommendation

It would not be appropriate or desirable to require municipal utilities and rural electric cooperatives to file emissions plans and budgets for managing regulated emissions from their coal-fired plants similar to the process required for rate-regulated utilities pursuant to Iowa Code § 476.6(25). **Therefore, the Board does not recommend that the General Assembly amend Iowa Code § 476.6(25) to require municipal utilities and rural electric cooperatives to file emissions plans and budgets for their coal-fired generation plants as is required by the statute for the rate-regulated utilities.**

Respectfully submitted,

/s/ Diane Munns

Diane Munns
Chairman

Attachment

cc: Speaker of the House
House Majority Leader
House Minority Leader



STATE OF IOWA

THOMAS J. VILSACK
GOVERNOR
SALLY J. PEDERSON
LT. GOVERNOR

IOWA UTILITIES BOARD
IOWA DEPARTMENT OF COMMERCE

December 1, 2003

The Honorable Michael E. Marshall
Secretary of the Senate
Statehouse
LOCAL

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Respectfully submitted,

/s/ Diane Munns

Diane Munns
Chairman

Attachment

cc: President of the Senate
Senate Majority Leader
Senate Minority Leader

Iowa Coal-fired Electric Plants

Rate-regulated Utility Coal-fired Electric Generating Plants

Utility	Location or Plant (*) = Jointly Owned	Total Site Net Summer Capacity MW
IES Utilities, Inc.	Burlington (IES)	212
IES Utilities, Inc.	Ottumwa - IES (*)	738
IES Utilities, Inc.	Prairie Creek	193
IES Utilities, Inc.	Sixth Street	84
IES Utilities, Inc.	Sutherland	143
Interstate Power Co.	Dubuque	78
Interstate Power Co.	Lansing	323
Interstate Power Co.	M.L. Kapp	217
MidAmerican Energy Co.	Council Bluffs (*)	972
MidAmerican Energy Co.	Louisa (*)	700
MidAmerican Energy Co.	Neal North (*)	950
MidAmerican Energy Co.	Neal South (*)	642
MidAmerican Energy Co.	Riverside	135
Rate-regulated Utility	Total	5,386
Coal-Fired Power Plant Generating Capacity		

Non-rate Regulated Utility Coal-fired Electric Generating Plants

Utility	Location or Plant	Total Site Net Summer Capacity MW
Ames Municipal Electric System	Ames	103
Corn Belt Power Coop	Earl F. Wisdom	37
Central Iowa Power Coop	Fair	64
Mount Pleasant	Mount Pleasant	3
Muscatine	Muscatine	269
Pella Municipal Power & Light Dept.	Pella	38
Cedar Falls Utilities	Streeter Station	57
Non-rate Regulated Utility	Total	572
Coal-Fired Power Plant Generating Capacity		

Rate-regulated Utility Coal-Fired Generating Plant Capacity	5,386
Non-rate Regulated Utility Coal-Fired Generating Plant Capacity	572
Non-Utility Coal-fired Generating Plant Capacity	298
Iowa Total Coal-fired Generating Plant Capacity	6,256

Source: EIA Data from - Inventory of Electric Power Plants in the United States 2000, and from Existing Capacity and Planned Capacity Additions at U.S. Nonutilities by Energy Source and State